

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICHARD LEVITT, Esq.

MEMORANDUM AND ORDER
11-CV-1088 (JS)(AKT)

Plaintiff,

-against-

DAVID H. BROOKS,

Defendant.

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APPEARANCES

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SEYBERT, District Judge:

Pending before the Court is Attorney Richard Levitt's motion to compel Defendant David H. Brooks to pay him \$224,956.16 in attorney fees owed for representing him in a related criminal matter, 06-CR-550. The Court hears this dispute through the exercise of its ancillary jurisdiction. See Garcia v. Teitler, 443 F.3d 202, 208 (2d Cir. 2006) (resolving fee disputes resulting from pending criminal matters falls within the Court's ancillary jurisdiction).

Mr. Levitt has affirmed, under penalty of perjury, that Mr. Brooks has repeatedly not contested the amount owed. Instead, according to Mr. Levitt, Mr. Brooks has fully conceded the debt but nevertheless refuses to pay it, claiming penury, despite finding the money to hire two new attorneys. See Docket No. 1 at ¶¶ 6-8; Docket No. 8 at ¶¶ 5.

Mr. Brooks, while opposing Mr. Levitt's motion, acknowledges its central points, noting that he has "acknowledged his debt to Levitt before this Court," but claims that he has "made every attempt to satisfy it." (November 4, 2010 Under Seal Submission). Mr. Brooks argues only that Mr. Levitt should not be entitled to "jump the line" ahead of Mr. Brooks' other creditors through this motion.

Mr. Brooks' objections are without merit. Mr. Brooks' other creditors are entitled to seek whatever relief they deem appropriate, as Mr. Levitt has done through this motion. The debt being uncontested, Mr. Levitt has every right to seek to enforce it and collect it.

Consequently, Mr. Levitt's motion is GRANTED. Mr. Brooks is ORDERED to pay Mr. Levitt \$224,956.16. Moreover, as this Court has sua sponte converted Mr. Levitt's motion into an independent civil action, Mr. Levitt is entitled to a Judgment in that amount. Consequently, the Clerk of the Court is directed to docket a judgment in Plaintiff Richard Levitt's

favor, in the amount of \$224,956.16, against Defendant David H. Brooks. The Clerk of the Court is further directed to mark this matter as CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
March 14, 2011